



# 種族平等與校服

Racial Equality and  
School Uniform



平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION

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### 免責聲明 Disclaimer

本指引只提供一般意見，並不具法律效力，亦非針對任何具體情況的法律意見。  
This guide is meant to be general advice. It does not have the force of law and is not meant to be legal advice on any specific situation.

## 1 引言

香港是擁有多元文化並崇尚平等自由的國際大都會。我們的學童來自不同背景，各有不同的需要，他們都是我們社會未來的棟梁。學校對兒童的教育和整體發展非常重要，能促進社會進步、確保未來一代擁有平等公正的價值觀。學校應接納所有來自不同背景的兒童，使他們從教育中獲益，培養他們成為有責任感的人，並為將來全面參與社會作準備。因此，學校擔當着至為重要、教育我們孩童的公共角色。學校必須是平等和開放的園地。校規應該符合平等的原則，而這原則亦適用於有關校服的規則。

此指引由平等機會委員會製作，目的是協助學校制訂及推行種族文化共融並且符合平等原則的校服規則。



## 1 Introduction

Hong Kong is a multicultural society committed to equality. Our school children are from diverse backgrounds and have different needs. They are our society's future. Schools are at the heart of their education and overall development, promoting social progress, ensuring a sense of equality and justice for future generations. Schools should welcome all children from diverse backgrounds, enabling them to benefit from everything that education can offer and preparing them for a responsible life and full participation in society in the future. Schools therefore play a vital public role in educating our children. They have to be places of equality and openness. School rules should be in accordance with the principles of equality. This applies to the rules on school uniform.

This guide is produced by the Equal Opportunities Commission to assist in the development and implementation of uniform rules in schools in a way that is racially and culturally inclusive and in accord with principles of equality.



## 2 校服

學校可自行決定是否制定校服及相關規則。大部份學校均設有校服政策和關乎學生外觀的相關規則。**一般來說，制定校服和相關規則，並無不妥。**穿著校服確有公認的好處，包括能界定學校的特性和校風；推動學生正面行為和紀律性；避免因財富和衣着潮流上的差異而作出比較；培養凝聚力；以及促進不同學生群體的團結和良好關係。

## 2 School uniform

It is for schools to decide whether to have a uniform and make related rules. Most schools have a uniform policy and related rules concerning the appearance of their pupils. There are recognized benefits in having a school uniform: it defines the identity and ethos of a school; supports positive behaviour and discipline; avoids manifesting disparities of wealth and style; nurtures cohesion; and promotes unity and good relations between different groups of pupils. **School uniform and related rules are generally legitimate.**

### 3 平等權利與校服

雖然訂定校服規則一般並無不妥，但在某些情況下，這些規則可能會影響到兒童的平等權利。

某些文化和宗教規定信徒必須遵守一些衣着守則，例如穿着或配戴一些特定物品、不得剪頭髮、穿着寬鬆的傳統衣服或把頭部遮蓋起來等，以展示他們的文化和信仰。若這些做法不獲尊重，便可能會對平等權利構成影響。下頁的個案就是一個例子。

### 3 Equality rights and school uniform

While school uniform rules are generally legitimate, in some instances they may affect children's equality rights.

Some cultures and religions require their adherents to conform to a particular dress code, or to outwardly manifest their culture and belief in various ways such as wearing or carrying specific items, not cutting their hair, dressing modestly by wearing loose fitting clothing or covering their head. If these practices are not respected, equality rights may be affected. The case on the next page is an example.



## Kara 案

(Watkins-Singh v Aberdare Girls High School [2008] EWHC 1865 (Admin))

某英國中學的校服規則不容許學童配戴首飾，一名14歲的錫克教女孩不獲學校批准配戴 Kara。Kara 是一隻光滑的鋼手鐲，是象徵和確認錫克教徒的種族和宗教身份的重要信物。由於校方未能提出理據，解釋為何不能就她的情況作出酌情豁免，因此法庭裁定該等校服規則影響到她的種族和宗教平等權利。



## The Kara Case

(Watkins-Singh v Aberdare Girls High School [2008] EWHC 1865 (Admin))

A high school's uniform rules did not allow children to wear jewelry. A 14-year-old Sikh girl was not allowed to wear the Kara, a plain steel bangle. It was an important item for Sikhs to identify themselves with their race and religion. The Court ruled that the uniform rules affected her race and religious equality rights because the school could not justify its failure to make an exception to its uniform policy for her.



根據香港的反歧視條例，學校不得基於性別、殘疾和種族等特質作出歧視。雖然香港沒有禁止宗教歧視的法例，但要清楚界定種族和宗教的分野往往並不容易。宗教和文化的習俗很多時會與種族身份認同掛鉤，而同一種族群體往往信奉相同宗教。基於此，學校在制定及執行校服政策方面，適宜尊重並顧及不同的文化、宗教和種族習俗，否則，兒童在法例之下的種族平等權利便可能會受到影響。

Under the provisions of anti-discrimination ordinances in Hong Kong, schools must not discriminate on various grounds, such as sex, disability and race. Although there is no legislation outlawing religious discrimination in Hong Kong, drawing a clear line between race and religion is often difficult. Religious and cultural practices are often linked to racial identity. Racial identity sometimes includes religious identity. Most often religious groups are predominated by one racial group. It would be appropriate for school uniform rules to respect and take into account the cultural, religious and racial practices. Otherwise, children's race equality rights under the law may be affected.

## 4 平衡不同的權利

另一方面，學校有需要在整個學校群體和遷就個別學生要求之間取得平衡。學校若有合理理據支持(例如衛生及安全、保安、保障其他人的權利和自由)，則在校服規則內加入對服裝款式和外觀的限制並無不妥。以下個案便是合理校服規則的例子。

On the other hand, a balance has to be struck between the school community as a whole and pupils requiring accommodation. Where there are justifiable grounds for school uniform rules (such as health and safety, security, protection of the rights and freedoms of others), restrictions on dress items and appearance are legitimate. The following case is an example where school rules were justified.



(R (Begum) v Denbigh High School  
[2007] 1 AC 100)

某英國中學的校服規則訂明容許穿着一種上衫下褲的伊斯蘭服裝(salwar kameeze)。Kameeze是一件鬆身的罩衣，其方形領口及頸項可顯示內裡的衣領和校服領帶；配搭的salwar則是鬆身及腳跟的褲子。學童需在kameeze內穿上白色長袖襯衫，外加長袖校服衛衣，天氣炎熱除外。

該校一名女生兩年來一直穿着 salwar kameeze上學，但某天決定改穿另一種伊斯蘭服裝(jilbab)。Jilbab是把整個人遮蓋起來的長袍。她穿着jilbab上學後，學校要求她回家更換正確的校服。於是她向校方提出歧視申索。鑑於校方在檢討其校服規則時已經諮詢了伊斯蘭群體，並考慮到需要尊重伊斯蘭信仰而容許學童穿着獲普遍接納的 salwar kameeze，因此法庭裁定，校方要求該女孩遵守校服規則是有理據的，並無違法。

## 4 Balancing different rights



The Begum  
Case

(R (Begum) v Denbigh High School  
[2007] 1 AC 100)

The uniform rules of a high school provided that a form of Muslim dress (shalwar kameeze) could be worn. The shalwar kameeze is a combination of the kameeze, a sleeveless smock-like dress with a square neckline, revealing the wearer's collar and tie, with the shalwar, loose trousers, tapering at the ankles. A long-sleeved white shirt is worn beneath the kameeze and, save in hot weather, a uniform long-sleeved school jersey is worn on top.

A girl who had been wearing shalwar kameeze for 2 years decided to wear another form of Muslim dress (jilbab). The jilbab is a full length dress covering the entire body. She turned up at school in a jilbab, but the school asked her to go home and change into the correct school uniform. A discrimination claim was filed on her behalf. Considering that when the school reviewed its uniform rules, it had involved members of the Muslim community and had taken account of the need to respect Muslim belief, so that the shalwar kameeze was allowed (a widely accepted form of Muslim dress), the Court held that the school was justified in requiring the girl to comply with the uniform rules.

## 以下是一些施加恰當規則和限制的考慮因素：

- ◆ 維持學校形象和校風，以團結師生；
- ◆ 促進學生正面行為和紀律性；
- ◆ 避免展示財富和衣着潮流上的差異；
- ◆ 保持衛生和安全——長頭髮需束起、鬆身的衣服和圍巾應妥善整理，以策安全；
- ◆ 確保學童在教育和整體發展方面享有最大得益——學童不應遮蓋面部，以致影響到普通社交或妨礙老師評估學習進度和課室活動的參與；學童的服飾不能窒礙他們參與課堂及課外活動。

學校在施加限制時應該小心謹慎，因為所施加的限制若缺乏理據，便有可能構成歧視。一般而言，校方應樂意考慮因應社會和文化環境的合理遷就要求。規則應具有彈性，以開明的態度就個別個案的理據作出仔細考慮。

## The following are some considerations which may justify appropriate rules and restrictions:-

- ◆ Contribute to school identity and ethos and build a sense of solidarity in the school;
- ◆ Promote positive behavior and discipline;
- ◆ Avoid manifest disparities of wealth and style;
- ◆ Maintain health and safety — long hair should be safely tied, loose clothing and scarves should be securely tucked in; and
- ◆ Uphold the best interest of the pupil in education and overall development — the face should not be covered so as to affect ordinary social interactions or prevent teachers from assessing learning process and participation in classroom activities; and the garments should not impede participation in school activities

Schools should be careful when imposing restrictions as it could be discrimination if there is no justification. In general, schools should be willing to consider reasonable requests for flexibility to accommodate particular social and cultural circumstances.

The rules should have room to consider such requests on a case-by-case basis, giving careful consideration to the merits of each case.



## 5 制訂或檢討校服規則

- 在制訂或檢討校服規則的過程時，學校必須採取融合和具透明度的程序，讓不同學生和家長群體參與，一起探討有關規則或限制可能對他們的需求所帶來的影響。良好的規則應能合理地顧及持份者的需要。
- 一個融合和具透明度的程序應可帶動開明的討論。學校可按情況，恰當諮詢相關的社區領袖。如要施加某項限制，校方應清楚說明施加該限制的原因；此舉不但能協助學生和家長了解實際情況，更有助學校以客觀的角度研究所關課題。
- 即使已制訂規則，亦應留有彈性，以便因應個別特殊情況考慮修訂規則條文或予以豁免。
- 應不時檢討所有規則。



## 5 Making or reviewing school uniform rules

- When making or reviewing rules on school uniform, it is important to adopt an inclusive and transparent process. It is important to involve different groups of pupils and parents, and to consider how any rules or restrictions might affect their needs and requirements. The rules should take reasonable account of their needs.
- An inclusive and transparent process should promote open discussion. Relevant community leaders may be consulted as appropriate. If a restriction is to be imposed, reasons for imposing it should be articulated clearly; this would not only help the pupils and parents understand the situation but also allow the school to examine the issue from an objective angle.
- When the rules are in place, there should be flexibility to consider requests for amendments or exceptions due to special circumstances on a case-by-case basis.
- The rules should be reviewed from time to time.



## 6 家長和監護人的角色

家長和監護人應以學童的最大利益作大前題，在維護個人觀點之餘，亦應從客觀角度考慮最有利孩童全面參與香港社會的方法，在兩者之間取得平衡。香港社會致力達致男女平等，而香港學校的作用是培養男女學生，使他們日後能平等參與社會。

雖然應該因應文化、宗教和種族背景作出合理的遷

就，但在男女平等的原則上卻不能妥協。

例如，學校的校服規則客觀合理，家長便不應因為對校服規則有主觀的不滿而不讓女孩上學，剝奪孩子接受教育的機會。



## 6

## The role of parents and guardians

Parents and guardians acting in the best interests of the child should balance their own personal views with what would objectively be the best for the child to fully participate in the school and in Hong Kong society. Hong Kong is committed to equality for men and women. Hong Kong schools are to prepare boys and girls to participate in society on an equal footing. **While reasonable accommodation should be made for cultural, religious and racial backgrounds, equality between men and women must not be compromised. For instance, it would be wrong to remove a girl from school and deprive her of an education because of a parent's own dissatisfaction with reasonable school uniform rules.**

## 7 其他範疇的平等 (殘疾和性別)

除了種族平等外，也要注意其他方面的平等，例如殘疾和性別。尤其是應按需要靈活地提供遷就。例如，可讓因手臂燒傷而有疤痕的學生着長袖衫。校方應以開放態度制訂校服規則，避免性別定型。校服標準應均等地套用於男女生。



## 7 Other aspects of equality (disability and gender)

Apart from race equality, other aspects of equality may also require attention, such as disability and gender. In particular, there should be flexibility to accommodate different needs. For instance, a pupil with burn scars on the arm could be allowed to wear a long-sleeve shirt. Schools are encouraged to be inclusive and to avoid gender stereotype in making school uniform rules. The uniform standard should be applied even-handedly between boys and girls.

# 8

## 有效的校服策略 School uniform strategies that work

在制訂校服政策和相關規則時，學校應採取融合和透明的程序，應尊重不同的文化、宗教和種族背景，並對其他特殊需要保留合理遷就的空間：

Schools should adopt an inclusive and transparent process in making their school uniform policies and related rules. They should respect different cultural, religious and racial backgrounds, and have flexibility to reasonably accommodate other special needs and requirements:

- ✓ 確保校服實用、舒適並能切合所進行的活動  
Ensure that the uniform is practical, comfortable and appropriate to the activity involved
- ✓ 清楚說明校服/儀容方面的政策，並知會家長  
Describe the uniform/appearance policy clearly and ensure that parents are informed
- ✓ 仔細考慮合理的酌情要求，特別是為了遷就有關族裔、殘疾、宗教或其他的特殊情況  
Carefully consider reasonable requests to deviate from the rules, in particular to accommodate ethnicity, disability, religion or other special circumstances
- ✓ 定期檢討規則  
Regularly review the rules
- ✓ 進行檢討時，尋求並促進學生、家長、教師和合適的社區代表之間的討論  
When reviewing, seek and promote discussions among pupils, parents, teachers and appropriate community representatives
- ✓ 以理性的討論為基礎，推行具靈活性的政策  
Implement a flexible policy on the basis of reasoned discussion



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